

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOSEPH W. HIGGINS,

Defendant.

4:19MJ3068

ORDER

Based on the court's observations and questioning of the defendant, and the representations of counsel, the Government's motion, (Filing No. 18), is granted, and

IT IS ORDERED:

1. Defendant is remanded to the custody of the Attorney General of the United States for mental health evaluations and testing and, as needed, for mental health care and treatment at the Federal Medical Center, Springfield, Missouri, or other suitable facility, pursuant to the provisions of 18 U.S.C. §§ 4241 and 4247. The FMC shall determine: 1) whether Defendant currently has the cognitive ability, competence, and capacity to consult with counsel, understand the criminal proceedings, and participate with and assist counsel in the defense of this case; and 2) the extent of Defendant's current dementia, if any, and its cause and likely prognosis, with and without treatment.
2. The FMC shall perform all appropriate and necessary medical and mental health testing and procedures for completing the evaluations required under this order, including but not limited to any CT scans, MRIs, etc.
3. Defendant shall submit to all testing, procedures, and treatment ordered by the Federal Medical Center. However, the defendant shall not be forced to take medications unless I order otherwise.

4. The FMC shall submit to the undersigned and all counsel of record a report of its evaluation and the status of Defendant's mental state within 60 days of Defendant's arrival at such facility.
5. If medication or treatment is necessary to maintain competency or to enhance Defendant's ability to fully participate in the defense of this case, such care and treatment shall be provided while at the FMC, described in that facility's report, and explained to the transporting officers so that any medications are provided as prescribed during transport back to the District of Nebraska.
6. The United States Marshal shall forthwith, without delay, transport Defendant to the Springfield, Missouri facility, or other suitable facility as identified by the Attorney General of the United States, in accordance with this order, at no cost to Defendant. The Marshal shall ensure Defendant receives all currently prescribed medications during transport to the FMC.
7. The United States Marshal shall promptly advise defense counsel concerning which Federal Medical Center location will be evaluating, caring for, and treating the defendant, and upon receipt of this information, defense counsel shall forward all medical and mental health records in counsel's possession, including but not limited to any records received from Pretrial Services, to that Center for its use in Defendant's care and evaluation.
8. Upon Defendant's release from the Federal Medical Center for return transport to the District of Nebraska, the Marshal shall provide a 30-day supply of all medications prescribed for Defendant's care and treatment at that time, and shall ensure Defendant receives such medications in accordance with the instructions of the prescribing physician during transport to this District.
9. Except as to transportation time presumed unreasonable under 18 U.S.C. § 3161(h)(1)(F), the time between today's date and a judicial determination that the defendant is competent and capable of assisting in the defense of this case shall be deemed excludable in any computation of time under the requirements of the Speedy Trial Act. 18 U.S.C. § 3161(h)(1)(A) & (h)(4).
10. The clerk shall provide a copy of this order to the Marshal upon filing.

11. The clerk shall set a case management deadline of June 24, 2019 to check on Defendant's transfer status and the location of the evaluating facility. The clerk shall place a non-public remark in the record when the location information is known and shall set a case management deadline 60 days thereafter to follow up with the Marshal regarding Defendant's location and evaluation status.
12. If Defendant is not returning to this district within 90 days of this order, the clerk shall bring this case to my attention.

May 23, 2019.

BY THE COURT:

s/ Richard G. Kopf
United States Senior District Judge